

RESOLUTION NO. 2005- 162

A RESOLUTION APPROVING THE 1ST AMENDMENT TO LEASE AGREEMENT BETWEEN ST. JOHNS COUNTY AND ST. AUGUSTINE BEACH, FLORIDA FOR A PORTION OF PIER PARK, AUTHORIZING THE COUNTY ADMINISTRATOR TO EXECUTE THE 1ST AMENDMENT TO LEASE AGREEMENT ON BEHALF OF THE COUNTY.

RECITALS

WHEREAS, the 1st Amendment to Lease Agreement, attached hereto as Exhibit "A" by reference and made a part hereof, is between the City of St. Augustine Beach and St. Johns County; and

WHEREAS, the original Lease Agreement, attached hereto as Exhibit "A-1" by reference and make a part hereof, is between the City of St. Augustine Beach and St. Johns County to lease a portion of Pier Park for an interactive fountain and associated amenities; and

WHEREAS, the original lease was for a period of twenty five years, the lease period will need to be extended another 5 years due to the requirements of the (Florida Recreation Development Assistance Program) FRDAP grant; and

WHEREAS, the improvements to the site will be funded by a FRDAP grant; and

WHEREAS, the grant has been approved by Florida Recreation Development Assistance Program; and

WHEREAS, it is in the best interest of the County to accept this Lease Agreement to provide this amenity for the community.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of St. Johns County, Florida, as follows:

Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as findings of fact.

Section 2. The Board of County Commissioners hereby approves the 1st Amendment to Lease Agreement attached hereto and authorizes the County Administrator to execute said amended lease.

Section 3. The Clerk of Court is instructed to file the original 1st Amendment to Lease Agreement in the Official Records of St. Johns County, Florida.

PASSED AND ADOPTED by the Board of County Commissioners of St. Johns County, Florida this 28th day of June, 2005.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By: Bruce A. Maguire
Bruce A. Maguire, Chair

ATTEST: Cheryl Strickland, Clerk
By: Robin L. Ploof
Deputy Clerk

RENDITION DATE 7/1/2005

1st AMENDMENT TO LEASE AGREEMENT

THIS 1ST AMENDMENT TO LEASE AGREEMENT ("1st Amendment") dated this _____ day of _____ 2005, by and Between **St. Johns County, Florida**, a political subdivision of the State of Florida, whose address is 4020 Lewis Speedway, St. Augustine, Florida 32084 as ("Owner") and **City of St. Augustine Beach, Florida**, whose address is 2200 AIA South, St. Augustine Beach, Florida 32084 as("Tenant")

Recitals

WHEREAS, on October 20, 2004 in **Resolution No. 2004-318**, attached hereto as Exhibit "A" incorporated by reference and made a part hereof, the Board of County Commissioners of St. Johns County approved the terms of the Lease Agreement between **St. Johns County**, as (Owner) and **City of St. Augustine Beach**, as (Tenant) to lease a portion of Pier Park as identified on the attached survey; and

WHEREAS, Section 10 of the original lease specified the time frame of the Lease Agreement shall run from and include, November 15, 2004 and the term of the Lease Agreement shall expire at 11:59 pm on December 31, 2029; and

WHEREAS, it is agreed by both parties to extend the Lease Agreement for an additional 5 years, expiring at 11:59 pm on December 31, 2034, which brings the lease to a term of 30 years; and

WHEREAS, the **City of St. Augustine Beach**, shall pay an additional \$5.00 for the Leased Property, the fee amount of \$1.00 per year shall remain the same, and the **County** may accept one (\$30.00) payment as full and total payment for the rent due under this Lease Agreement; and

WHEREAS, it is hereby understood that all other terms and conditions shall remain the same and in full force.

NOW THEREFORE, the parties hereby agree as follows:

Section 1. The above Recitals are incorporated by reference into the body of this Resolution and such Recitals are adopted as findings of fact.

Section 2. The parties agree to extend the Lease Agreement an additional 5 years for a total of a 30 year Lease Agreement.

Section 3. The lease amount shall increase an additional \$5.00 extending the lease an additional 5 years, and all remaining provisions and agreements the Lease shall remain in full force.

IN WITNESS WHEREOF, the parties hereto have duly executed this Amendment effective immediately.

Owner
St. Johns County, a Political
subdivision of the State of
Florida


By: _____
Ben W. Adams,
County Administrator

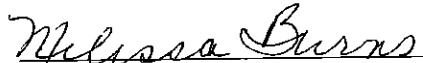
Print Witness Name _____

Print Witness Name _____

STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this ____ day of
____ 2005 by _____ Mayor of City of St. Augustine Beach, Florida. Who
is personally known or has shown _____ as identification.


Print Witness Name Frank W. Adams


Print Witness Name MELISSA BURNS


Tenant
City of St. Augustine Beach
Florida
By:  _____
Frank Charles, Mayor

Exhibit "A-1" To Resolution

**LEASE AGREEMENT
BETWEEN ST. JOHNS COUNTY, FLORIDA
AND
ST. AUGUSTINE BEACH, FLORIDA**

THIS LEASE AGREEMENT (Lease Agreement), is entered into between **St. Johns County, Florida (County)**, a political subdivision of the State of Florida, by and through its Board of County Commissioners, whose address is 4020 Lewis Speedway, St. Augustine, Florida 32084, and the **City of St. Augustine Beach, Florida (City)**, a municipal corporation of the State of Florida, by and through its City Council, whose address is 2200 A1A South, St. Augustine Beach, Florida 32080.

RECITALS

WHEREAS, the City wishes to design, construct, maintain, and repair an interactive fountain and other amenities within a portion of Pier Park, which is located in the City, but is owned by the County; and

WHEREAS, the City has requested the County lease to the City certain property that the County owns, in order to facilitate the City submitting an application for a State grant for a public fountain; and

WHEREAS, Section 163.02, Florida Statutes (2004) authorizes the County, and the City to enter into this Lease Agreement; and

WHEREAS, this Lease Agreement sets forth the terms, conditions, provisions, rights, and responsibilities associated with the leasing of the County-owned property, and the design, construction, maintenance, repair, and possible restoration of a fountain at Pier Point; and

WHEREAS, the Board of County Commissioners of St. Johns County, Florida (Board) (on behalf of the County) has reviewed the duration, terms, conditions, provisions, rights, and responsibilities of this Lease Agreement, and have determined that this Lease Agreement serves a public purpose.

NOW, THEREFORE, in consideration, of mutual covenants and promises contained herein, it is agreed by, and between, the parties as follows:

Section 1. The above Recitals are incorporated into the body of this **Lease Agreement**, and said Recitals are adopted as Findings of Fact.

Section 2. If any word, phrase, sentence, part, subsection, section, or other portion of this **Lease Agreement**, or any application thereof, to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, subsection, other portion, or the proscribed application thereof shall be severable, and remaining portions of this **Lease Agreement**, and all applications thereof, not having been declared void, shall remain in full force, and effect.

Section 3. Any prior Interlocal Agreement, or Interlocal Lease Agreement between the **County**, and the **City** shall be deemed revoked, and/or terminated, and therefore unenforceable.

Section 4. This **Lease Agreement** shall be construed according to the laws of the State of Florida. Venue for any state administrative and/or legal action arising under this **Lease Agreement** shall be in St. Johns County, Florida. Venue for any federal legal action arising under this **Lease Agreement** shall be in the United States District Court, Middle District of Florida.

Section 5. In light of the scope and rationale of this **Lease Agreement**, neither the **County**, nor the **City**, may assign, transfer, and/or sell any of the rights, responsibilities, obligations, and/or liabilities noted in this **Lease Agreement** without the express prior written approval of the other party. Should either the **County**, or the **City**, assign, transfer, and/or sell any of the rights, responsibilities, obligations, and/or liabilities without such express prior written approval of the other party, then such action on the part of either the **County**, or the **City**, shall result in the automatic termination of this **Lease Agreement** without further notice or action required on the part of the other party.

Section 6. Both the **County**, and the **City**, acknowledge that this **Lease Agreement** constitutes the complete agreement and understanding of both parties. Both the **County**, and the **City**, acknowledge that any amendments to this **Lease Agreement** shall be in writing, and shall be executed by duly authorized representatives of both the **County**, and the **City**.

Section 7. The **County** covenants to the **City** that the **County** owns the **Property** in fee simple title, and has full authority to enter this **Lease Agreement**.

Section 8. The **County** does hereby lease to the **City** the following described **Leased Property**, which is located in St. Johns County, Florida, together with any, and all, improvements thereon, with said **Leased Property** being more particularly described in attached and incorporated **Exhibit "A"**.

Section 9. The Leased Property shall be used solely and exclusively for public and governmental functions, including, but not limited to, park purposes specified by the City and approved by the County. It is specifically understood that the construction, installation, maintenance, repair, restoration and/or replacement of a public fountain is considered, by the County, an approved use of the Leased Property for the term of this Lease Agreement.

Section 10. The term of this Lease Agreement runs from, and includes, November 15, 2004 and the term of this Lease Agreement expires at 11:59 pm on December 31, 2029. However, it is expressly understood that if the City does not receive a grant from the State, in order to design, and construct the proposed fountain, then this Lease Agreement automatically, and without further action required on the part of either the City or County, terminates on the date that the State denies the grant application, or November 15, 2005, whichever date arrives first.

Section 11. The City shall pay the County one dollar (\$1.00) per year as payment/rent for the Leased Property. The first rental payment shall be made on the date of last execution, by either the County, or the City, but in no event later than November 15, 2004. Thereafter, rental payments will be due on the January 1, of every year that this Lease Agreement is in effect. It is also understood that the County may accept one twenty-five dollar (\$25.00) payment as full and total payment for the rent due under this Lease Agreement.

Section 12. The City will take possession of the Property without further improvement by the County. Any further improvements required, in order to facilitate the City's use of the Property shall be made by the City, at the City's sole expense.

Section 13. The City shall have the right to enter upon the Leased Property for all purposes necessary to the full enjoyment of the rights herein permitted and authorized under this Lease Agreement.

Section 14. The City shall, through its agents and employees, prevent the unauthorized use of the Leased Property or any use thereof that is not in conformance with this Lease Agreement.

Section 15. To the extent that the State of Florida (State) provides either a Management Plan for, or rules and regulations associated with, the operation and/or maintenance of the Leased Property, then the City shall abide by, and comply with the Management Plan, and/or the rules and regulations of the State.

Section 16. The County, or its duly authorized agents, maintains, and retains the right to inspect the Leased Premises, at any time, in order to determine the degree of the City's compliance with the terms, provisions, conditions, requirements, and responsibilities noted in this Lease Agreement.

Section 17. The City shall assist in the investigation of injury or damage claims arising out of the City's management programs and/or activities noted in this Lease Agreement. To the extent permitted by law, the City shall be responsible for all personal injury, and property damage attributable to the negligent acts or omissions of its officers, employees, and agents. Nothing herein shall be construed as a waiver of sovereign immunity by either the City, or the County, as provided under Section 768.28, Florida Statutes, or any other State or Federal law providing limitation on claims.

Section 18. The City may not grant any easement on the Leased Property without first securing the written approval and consent of the County (and if required, the State, or the United States). Any easement not first approved in writing by the County (and if required, the State, or the United States), shall be void and without legal effect.

Section 19. Subleases on the Leased Property, of any nature, are prohibited, without first securing the written approval and consent of the County. Notwithstanding the ban on subleasing, the City may nonetheless enter into contracts, agreements, and other arrangements necessary to carry out the terms, conditions, provisions, requirements, and responsibilities noted in this Lease Agreement.

Section 20. The City shall be responsible for the payment of all utility charges, and utility-related charges, including, but not limited to, charges and fees for the provision of gas, electricity, water, and other public utilities to the Leased Property, and any fountain, or any other structure located on the Leased Property. At the expiration of the lease term, the City shall be responsible for terminating any, and all, utility services serving the Leased Property, the fountain, or any other structure located on the Leased Property.

Section 21. The City shall maintain the Leased Property, the fountain, and any other structure or improvement located on the Leased Property, in a state of good condition, working order and repair, including, but not limited to, keeping the Leased Property, the fountain, and any other structure or improvement located on the Leased Property free of trash and debris, and in compliance with any applicable codes, including, but not limited to, building, electric, and safety codes.

Section 22. The City shall not do, or suffer to be done, in, on, or upon the leased premises any act that might result in damage or depreciation of value to the Leased Property.

Section 23. All notices and other correspondence to the County shall be delivered, either by hand (receipt of delivery is necessary), or by U.S. Mail to

County Administrator
4020 Lewis Speedway
St. Augustine, Florida 32084

With a Copy To:

Director—County Recreation and Parks Department
901 Pope Road
St. Augustine, Florida 32080

All notices, and other correspondence to the City shall be delivered, either by hand (receipt of delivery is necessary), or by U.S. Mail to

City Manager
City of St. Augustine Beach
2200 A1A South
St. Augustine Beach, Florida 32080

Section. 24. Notwithstanding any other language in this Lease Agreement, this Lease Agreement may be terminated by mutual written agreement of both the County, and the City. On the date of termination, the City shall have one hundred eighty (180) days, in which to remove the fountain, or any other structure or improvement located on the Leased Property. The City shall have full financial responsibility for such removal, unless the County determines that a public interest will be served by participating in a financial capacity in the removal of such fountain, structure, and/or improvement. If the fountain, or any other structure or improvement is not removed from the Leased Property, then such fountain, structure or improvement will become the property of the County, at the expiration of the one hundred eighty (180) day removal term. In any event, upon termination, the County will once again have sole, fee simple title to the Leased Property.

Section 25. This Lease Agreement will be filed with the Clerk of the Circuit Court, as required by State law.

IN WITNESS WHEREOF, the parties have hereunto set their hand and seal on this day year below written.

**Board of County Commissioners
St. Johns County, Florida**

By: _____

Date: _____

**ATTEST:
Cheryl Strickland, Clerk of Court**

Deputy Clerk

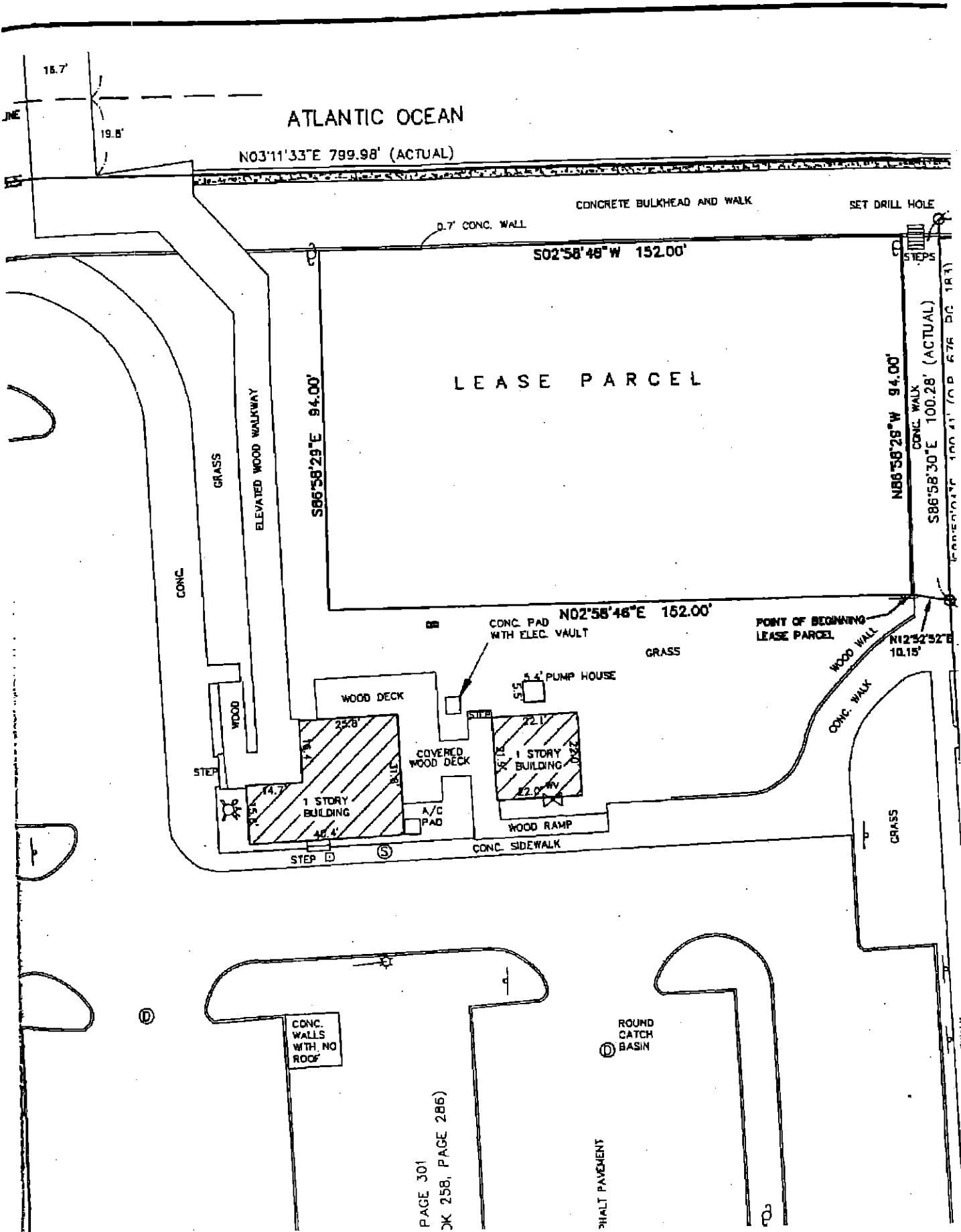
City of St. Augustine Beach

By: _____
Mayor

Date: _____

ATTEST:

City Clerk



PAGE 301
JK 258, PAGE 286)

DATE: 10/11/01

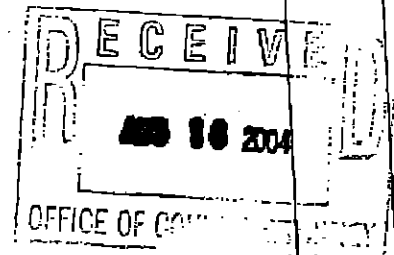
N

WOOD PIER

535.5'

MAP SHOWING SURVEY OF

A PART OF GOVERNMENT LOT 1, SECTION 34, TOWNSHIP 7 SOUTH, RANGE 30 EAST, ST. JOHNS COUNTY FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS: FOR A POINT OF REFERENCE, COMMENCE AT THE INTERSECTION OF THE NORTHERLY LINE OF SAID GOVERNMENT LOT 1 WITH THE EASTERLY RIGHT OF WAY LINE OF STATE ROAD NO. A1A AS NOW ESTABLISHED AS A 100 FOOT RIGHT OF WAY AND AS SHOWN IN ROAD MAP BOOK 4, PAGES 104-107 OF THE PUBLIC OF SAID COUNTY; THENCE SOUTH 03° 01' 30" WEST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 536.59 FEET TO THE POINT OF BEGINNING, SAID POINT BEING THE SOUTHWESTERLY CORNER OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORDS 214, PAGE 798 OF SAID PUBLIC RECORDS; THENCE CONTINUE SOUTH 03° 01' 30" WEST, ALONG SAID EASTERLY RIGHT OF WAY LINE, A DISTANCE OF 431.80 FEET TO THE NORTHWESTERLY CORNER OF THOSE LANDS AS DESCRIBED IN OFFICIAL RECORDS 676, PAGE 183 OF SAID PUBLIC RECORDS; THENCE SOUTH 88° 58' 30" EAST, ALONG THE NORTHERLY LINE OF SAID LANDS, A DISTANCE OF 406.56 FEET; THENCE SOUTH 86° 58' 30" EAST, ALONG SAID NORTHERLY LINE, A DISTANCE OF 100.28 FEET; THENCE SOUTH 03° 01' 34" WEST, ALONG THE EASTERLY LINE OF SAID LANDS, A DISTANCE OF 116.40 FEET; THENCE NORTH 88° 52' 56" WEST, ALONG THE SOUTHERLY LINE OF SAID LANDS, A DISTANCE OF 5.00 FEET TO THE SOUTHEASTERLY CORNER OF AN EXISTING BUILDING, SAID CORNER ALSO THE SOUTHEASTERLY CORNER OF LANDS AS DESCRIBED IN DEED BOOK 258, PAGE 286; THENCE SOUTH 03° 11' 33" WEST, ALONG THE WESTERLY LINE OF THOSE LANDS AS DESCRIBED IN DEED BOOK 76, PAGE 303 OF SAID PUBLIC RECORDS, A DISTANCE OF 125.00 FEET; THENCE SOUTH 86° 46' 27" EAST, ALONG THE MOST SOUTHERLY LINE OF SAID LANDS, A DISTANCE OF 20.00 FEET; THENCE NORTH 03° 11' 33" EAST, ALONG THE EASTERLY LINE OF SAID LANDS AND ALONG THE EASTERLY LINE OF THOSE LANDS AS DESCRIBED IN DEED BOOK 76, PAGE 301 OF SAID PUBLIC RECORDS (THE SAME BEING THE SHORE OF THE ATLANTIC OCEAN), A DISTANCE OF 799.98 FEET; THENCE NORTH 86° 48' 27" WEST, ALONG THE MOST NORTHERLY LINE OF THOSE LANDS DESCRIBED IN DEED BOOK 76, PAGE 303, A DISTANCE OF 20.00 FEET; THENCE SOUTH 03° 11' 33" WEST, ALONG THE WESTERLY LINE OF THOSE LANDS DESCRIBED IN DEED BOOK 76, PAGE 303, A DISTANCE OF 125.00 FEET; THENCE NORTH 88° 46' 30" WEST, ALONG THE SOUTHERLY LINE OF THOSE AFOREMENTIONED LANDS AS DESCRIBED IN OFFICIAL RECORDS 214, PAGE 798, A DISTANCE OF 503.45 FEET TO THE POINT OF BEGINNING. CONTAINING 5.33 ACRES, MORE OR LESS.



FOR: ST. JOHNS COUNTY RECREATION DEPARTMENT

SOUTH LINE D.B. 76, P. 301 FROM D.I.C. 4000
 ACTUAL FROM R/W LINE TO EASTLINE OF BUILDING
 566° 52' 56" E 501.87' (D.B. 258, P.G. 286)
 N88° 05' E 500.01'

286)
ATED)

FOUND NAIL AND DISK
 LS 1578
 0.7' EAST

16.7'

MATCH LINE

19.6'